

BEFORE THE SPEECH AND HEARING SERVICES LICENSURE BOARD

STATE OF IDAHO

In the Matter of the License of:)
) Case No. SHS-2007-1
STEVEN RICHARD NEILSON,)
License No. HA-1046,) **STIPULATION AND**
) **CONSENT ORDER**
Respondent.)
)

SHS\Neilson\P63211ka

WHEREAS, information having been received by the Idaho State Speech and Hearing Services Licensure Board (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Steven Richard Neilson (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of speech and hearing services in the State of Idaho in accordance with title 54, chapter 29, Idaho Code.

2. Respondent Steven Richard Neilson is a licensee of the Idaho State Speech and Hearing Services Licensure Board and holds License No. HA-1046 to practice as a hearing aid dealer and fitter in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 29, Idaho Code.

3. On or about February 16, 2005, Respondent tested and fitted M [REDACTED] J [REDACTED] for hearing aids at Intermountain Hearing Centers in Boise, Idaho. On or about March 2, 2005, Respondent and Mr. J [REDACTED] signed a contract for the hearing aids, a copy of which is attached hereto as Exhibit A.

4. When the parties entered into the contract reflected in Exhibit A, the laws governing hearing aid fitters and dealers in the State of Idaho, specifically Idaho Code § 54-2903(a) (2004), mandated that the contract state, in print size no smaller than ten (10) point type:

a. The address of the Bureau of Occupational Licenses and the procedure for filing complaints;

b. That complaints should be filed within one (1) year of the date the consumer knew or should have known of the incident which gives rise to the complaint;

c. That the contract is null and void and unenforceable if the hearing aid being purchased is not delivered to the consumer within thirty (30) days of the date the written contract is signed; and

d. That in the event the hearing aid is not delivered to the consumer within thirty (30) days of the date the written contract is signed, the hearing aid dealer and fitter shall promptly refund any and all moneys paid for the purchase of the hearing aid.

5. The contract at issue, Exhibit A, failed to contain these statements and violates Idaho Code § 54-2903(a) (2004).

6. The acts or omissions described above constitute grounds for disciplinary action against Respondent's license to practice as a hearing aid dealer and fitter in the State of Idaho. *See* Idaho Code 54-2912(b)(13) (2004).

7. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against his license as set forth in Section C below.

B.

I, Steven Richard Neilson, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for

disciplinary action upon my license to practice as a hearing aid dealer and fitter in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of hearing aid dealing and fitting in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. Respondent is reprimanded by the Board for failing to use a contract complying with Idaho law.

2. Within fifteen (15) days of the date of entry of the Board's Order, Respondent shall provide for Board approval a copy of a proposed contract that complies with the Board's contract requirements as specified in Idaho Code § 54-2906 and Board Rule 600 (IDAPA 24.23.01.600).

3. Respondent shall pay investigative costs and attorney fees in the amount of Five Hundred Sixty-Two and 50/100 Dollars (\$562.50) within thirty (30) days of the entry of the Board's Order.

4. All costs associated with compliance with the terms of this Stipulation are the sole responsibility of Respondent.

5. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this

proceeding until all matters are finally resolved as set forth in this Stipulation.

D.

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this settlement agreement, and if rejected by the Board, an administrative Complaint will be filed. By signing this document, Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the Complaint based on the fact that the Board has considered and rejected this settlement agreement. Pursuant to Idaho Code § 67-5252, Respondent retains the right to otherwise challenge the impartiality of any Board member to hear the allegations in the Complaint based upon bias, prejudice, interest, substantial prior involvement in the case or any other reason provided by law or for any cause for which a judge is or may be disqualified.

3. If the Board does not accept this Consent Order then, except for Respondent's waiver set forth in Paragraph D(2), above, it shall be regarded as null and void. Admissions by Respondent in the settlement agreement will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. With the exception of Paragraph D(2), above, which becomes effective upon Respondent signing this document, this Consent Order shall not become effective until it has been approved by a majority of the board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a

violation of Idaho Code § 54-2923. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether or not Respondent has defaulted under this agreement. The director shall also serve notice of the default hearing and charges to Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the notice of default hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations of default will be deemed admitted.

b. At the default hearing, the Board and Respondent may submit affidavits and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the default hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

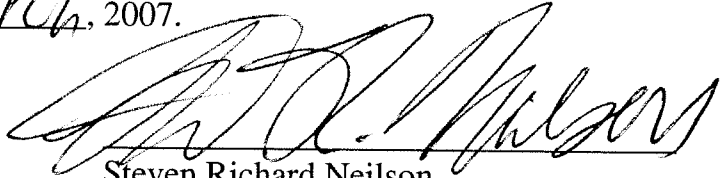
7. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be

waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 9 day of March, 2007.



Steven Richard Neilson
Respondent

I concur in this stipulation and order.

DATED this 19th day of March, 2007.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By K T Klein

Karl T. Klein
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-2910, the foregoing is adopted as the decision of the Speech and Hearing Services Licensure Board in this matter and shall be effective on the 10th day of May, 2007. **IT IS SO ORDERED.**

IDAHO STATE SPEECH AND
HEARING SERVICES LICENSURE BOARD

By 
Andrew J. Seitz, Chair

CERTIFICATE OF SERVICE

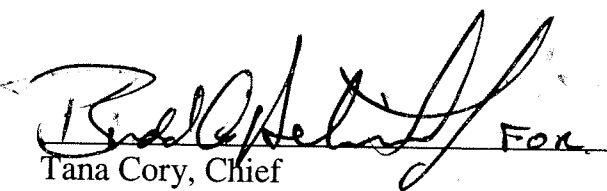
I HEREBY CERTIFY that on this 10 day of May, 2007, I caused to be served a true and correct copy of the foregoing by the following method to:

Steven Richard Neilson
7287 S. 2540 W.
West Jordan, UT 84084

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Karl T. Klein
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail


Tana Cory, Chief
Bureau of Occupational Licenses

OFFICE #495,3247

Intermountain Hearing Centers

4902 West State Street, Boise, ID 83703

Date: 3/2/05
Source: _____

M. J. J.
2nd year warranty Option (\$200 each) Y N; 3rd year warranty option (\$400 each)

New Reconditioned Used: Ear Texture S M H

2 Audibel Zuplex # CJC Multi-Memmor + Hds

Price \$6495⁰⁰

Sales Tax \$
Cash Price \$6495⁰⁰

Included in the price: hearing aids, examination and fitting, 1/3/6 week consultation, one 4 pack of batteries per hearing aid, 1 acoustic coupler per hearing aid, yearly evaluation, manufacturer's or Intermountain Hearing warranty.

DETAILS OF TRANSACTION:

1. Cash Price	<u>\$6495⁰⁰</u>	5. Finance Charges	<u>\$</u>
2. Down Payments	<u>\$</u>	6. Total of Payments (4+5)	<u>\$</u>
3. Additional pmt. at Delivery	<u>\$</u>	7. Deferred Payment Price (2+3+5)	<u>\$</u>
4. Amount Financed (1-(2+3))	<u>\$4500⁰⁰</u>	Annual Percentage Rate	<u>%</u>

PAYMENT TERMS:

Buyer agrees to pay at place designated by the Seller, in equal successive monthly payments of \$ 1995⁰⁰ each, commencing 3/24 and continuing on the same day of each month thereafter until paid in full.

LATE CHARGES may be imposed as to any installment not paid in full within 10 days after its due date at the either: (1) 5% of the installment, or \$15, whichever is higher; or (2) An amount equal to the annual percentage rate stated herein, times the installment amount from the due date until date of payment, counting each day as 1/30th of a month. Buyer agrees to pay all costs of collection, including a 50% Collection Agency Commission, reasonable attorneys' fees, and interest at the rate of twenty one percent (21%) per annum. I also agree to submit myself to the jurisdiction of the courts of Davis County, Utah. REPAYMENT REBATE- Buyer may repay his obligations under the contract in full at any time prior to maturity of the final installment hereunder, and if he does so, shall receive a rebate of the unearned portion of the Finance Charge computed, under the sum of the digits method subject to retention by Seller of a minimum finance charge of \$5.00 if the amount financed does not exceed \$75.00, or \$7.50 if the amount financed exceeds \$75.00. No rebate will be made if the amount thereof is less than \$1.00. PERSONS BOND- Each person signing this Agreement, other than Seller, is a Buyer and the obligations of all Buyers are joint and several. Buyers can cancel this purchase within 30 days of the delivery with all money paid being refunded except for \$447.00 per hearing aid. Prognosis: the above described hearing system will help the buyer hear with more intensity and may help with improved clarity. The purchaser has been advised that any examinations or representations made by a licensed hearing aid specialist in connection with medicine in this state and should not be regarded as a medical opinion. Buyer's right to cancel - If this sale was person personally solicited by the seller, including any such solicitation made in response to or following an invitation by you, and your agreement or offer to purchase is made at a place other than the place of business of the seller, you may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the notice of cancellation form on the reverse side hereof for an explanation of this right. I have been advised by Intermountain Hearing Centers that the food and drug administration has determined that my best health interest would be served if I had a medical evaluation by a licensed physician (preferably a physician who specializes in diseases of the ear) before purchasing a hearing aid. I do not wish a medical evaluation before purchasing a hearing aid.

Buyer acknowledges receipt of the sale agreement including the above disclosure.

Buyer: M. J. J.

Steven R. Neilson Permitted TH-1046

Co-Buyer: _____

48 mos.
ext. pmt.

Exhibit A
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